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December 2, 1993

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Mr. Caton:

Transmitted herewith, on behalf of Life Anew Ministries, Inc., licensee of Television Station WLCN, Madisonville, Kentucky are an original and four (4) copies of its Petition for Rulemaking to include Madisonville, Kentucky in the Evansville, Indiana Television Market.

Should questions arise with respect to this filing, please communicate with the undersigned.

Very truly yours,



Robert L. Olender
Counsel for
LIFE ANEW MINISTRIES, INC.

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Enclosures
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DEC - 2 1993

**Before the
Federal Communications Commission**

Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	MM Docket No. 93-
)	
Request by Life Anew Ministries, Inc.)	RM
to Amend Section 76.51 of the)	
Commission's Rules to include)	
Madisonville, Kentucky in the)	
Evansville, Indiana Television Market)	

To: The Commission

PETITION FOR RULEMAKING

Life Anew Ministries, Inc. ("LAMI"), licensee of Television Station WLCN, Madisonville, Kentucky, by its counsel, hereby submits its Petition for Rulemaking to include Madisonville, Kentucky in the Evansville, Indiana Television Market pursuant to Commission Rule 76.51 (47 C.F.R. §76.51).

DISCUSSION

The Commission has enunciated its position that stations meeting certain criteria would be eligible to change the designation of a television market. In its Cable Television Report and Order, 36 FCC 2d 143, 176 (1972) the Commission acknowledged the need to equalize the competitive status where stations are in economic competition. WLCN is in urgent need of economic parity with the other Evansville Television stations.

If Madisonville is made a part of this market, cable systems in the vicinity of Evansville will have an opportunity to carry WLCN without concern for adverse financial implications because of copyright obligations. Moreover, WLCN is in competition with other market stations for portions of

its programming, and is in need of the same historic and prospective consideration that the Commission has and will extend to stations in similar positions.¹

In evaluating requests for hyphenation of a market, the Commission has considered some or all of the following factors as relevant to its examination:²

1. The distance between the proposed community and the existing designated communities.
2. Whether cable carriage, if afforded to the subject station, would extend to areas beyond its Grade B signal coverage area.
3. The presence of a clear showing of a particularized need by the station requesting the change of market designation.
4. An indication of benefit to the public from the proposed change.

In addition, the Commission in its Report and Order released March 29, 1993 (MM Docket No. 92-259) indicated that it expects to receive evidence that demonstrates commonality between the proposed community to be added to a market designation and the market as a whole. A review of the following significant facts show that there is ample commonality between Madisonville and the Evansville market:

¹See request by TV 14, Inc. to include Rome, Georgia in the Atlanta, Georgia Television Market (RM-8016).

²See Major Television Markets (Fresno-Visalia, California) 57 RR 2d 1122 (1985).

1. Madisonville is in the Evansville ADI and is listed by Arbitron as "Evansville (Madisonville)".
2. Madisonville is in Hopkins County, which is not only one of the 21 counties in the ADI, but even more important is the fact that Hopkins County is one of the counties that make up the Metro Survey Area according to Arbitron.
3. The Evansville television stations have significantly viewed status in Hopkins County.
4. There are also common cultural, social and economic interests between the residents in these areas.

Thus, there is clearly commonality between Madisonville and Evansville to warrant the expansion of this hyphenated market to include Madisonville.

The Commission has defined a hyphenated television market as one characterized by more than one major population center supporting all stations in the market but with competing stations licensed to different cities within the market area. As is evident herein, WLCN is a part of the Evansville market, and is competing with stations licensed to these cities.

Affixed hereto, as Attachment A, is a contour map in which it can be determined that the distance between Madisonville to Evansville is approximately 44 miles, computed by coordinate to coordinate.³ It should be further noted that

³Also, as a point of comparison, in the Rome, Georgia case approved by the Commission, (infra, footnote 1) the distance between Rome to Atlanta was 58 miles, greater than the present proposal. In addition in renaming the Columbus, Ohio, market to include Chillicothe, the distance between
(continued...)

WLCN's tower is located only 6.2 miles from Evansville and thus in reality, it cannot be considered a distant signal. Perhaps of equal, if not greater significance, is the fact that WLCN puts a Grade B signal over Evansville, which the Commission considers as determinative.

LAMI wishes to point out that the market designation contained in Section 76.51 of the Commission's rules does not accurately reflect the reality of the area television market. When the Commission revised Section 76.51, WLCN was broadcasting off of its auxiliary transmitter site and therefore was not putting a Grade B signal into much of the ADI. However, since that time WLCN has increased its tower height and its power thus making it one of the most powerful stations in the market. Accordingly, when the Commission revised the Section 76.51 market listing, Madisonville would not have been included in the Evansville market, but based upon its current status, it clearly warrants inclusion.

LAMI has a particularized need for requesting the change of market designation. Because of non-duplication and syndicated exclusivity, LAMI can't buy programs for just Madisonville, because it places a Grade B signal over Evansville. Therefore, syndicators will only sell LAMI programs that haven't been bought in Evansville and, if they do, they will charge Evansville prices. Consequently, since

³(...continued)
Chillicothe and Columbus was 50 miles. See, Report and Order, infra, para. 50.

LAMI can't buy programs based on a small market pricing, the only way that WLCN can compete is to be placed in the same parity as the Evansville stations.

Furthermore, LAMI cannot pay Evansville prices for programs and also be required to pay distant signal copyright fees. If WLCN is considered a distant signal under the new must-carry laws, the cable systems will not be obligated to carry WLCN unless LAMI indemnifies the cable system for the added copyright fees.⁴

Although WLCN would receive some expanded cable rights beyond its Grade B contour, it would not be beyond its present rights in as much as WLCN is in the ADI.

With regard to the last criteria, which is the public interest consideration, the proposed change will benefit the public since it will enable WLCN to insure continued viability. If WLCN is not permitted to effectively compete in the Evansville market place, it will not survive. WLCN is the first local commercial independent television service for Madisonville and thus it provides that community with a vehicle of local expression. The Commission can take official notice of the financial circumstances facing a small market UHF television station such as WLCN. That is particularly true where the station is a religious/family station, seeking to provide wholesome programming to its viewers not currently available in the market. If WLCN is shut out by unreasonable

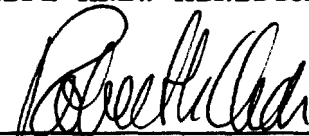
⁴See, Report and Order, infra, par. 114.

copyright obligations, then the public will lose out this new service.

ACCORDINGLY, it is submitted that LAMI has, beyond peradventure, established a clear case in equity and law for inclusion in the Evansville market so that it will become the Evansville-Madisonville market and will serve the public interest by meeting the underlying purposes of the market hyphenation rule to equalize competition among stations in genuine competition.

Respectfully submitted,
LIFE ANEW MINISTRIES, INC.

By:


Robert L. Olender

Its Counsel

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December 2, 1993

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ATTACHMENT A

